

**PATENT APPLICATION**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of

Docket No: Q65478

Tatsuo KAKIMOTO, et al.

Appln. No.: 09/918,508

Group Art Unit: 1647

Confirmation No.: 3296

Examiner: Rachel K. Hunnicutt

Filed: August 01, 2001

For: **ANALYSIS OF AGONIST-ACTIVITY AND ANTAGONIST-ACTIVITY TO CYTOKININ RECEPTOR**

**DECLARATION UNDER 37 C.F.R. § 1.131**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

We, TATSUO KAKIMOTO and MASA YUKI HIGUCHI do hereby declare and state:

THAT we are inventors of the subject matter disclosed and claimed in the above-mentioned application;

THAT TSUTOMU INOUE is also an inventor of the subject matter claimed, but that TSUTOMU INOUE is unavailable to execute this declaration. More particularly, TSUTOMU INOUE left Osaka University at the end of September 2003, and has been out of touch since then. No response has been received, although e-mails, phone calls and facsimiles were given by several people to the address or the number he left;

THAT we are co-authors of *Nature* Vol. 409, 1060-1063 (2001) (a copy of which is attached); and

THAT the present invention was invented prior to October 16, 2000, as evidenced by the date that the manuscript published as *Nature* Vol. 409, 1060-1063 was received by the Journal *Nature* for publication (see page 1063, above references). *Nature* Vol. 409, 1060-1063 shows

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typical working examples of the present invention (see page 1061, right column, lines 15-36, and page 1062, Figure 4). *Nature* Vol. 409, 1060-1063 shows *CRE1* gene, which is a typical example of a cytokinin receptor gene within scope of the claims. *Nature* Vol. 409, 1060-1063 also shows a yeast strain deficient in the *SLN1* gene (*sln1* Δ mutant) (page 1061, right column, lines 15-26), which is a typical example of "a host cell having a lowered intrinsic histidine kinase activity, wherein said intrinsic histidine kinase activity was lowered by the defect in one or more histidine kinase genes". Furthermore, *Nature* Vol. 409, 1060-1063 shows a *sln1* Δ mutant carrying p415CYC-CRE1 (page 1061, right column, lines 26-27), which is a typical example of "a cell transformed with DNA comprising a cytokinin receptor gene, wherein the transformed cell expresses said cytokinin receptor from said DNA, and wherein growth of said transformed cell is controlled by intracellular signal transduction from said cytokinin receptor". Moreover, *Nature* Vol. 409, 1060-1063 shows a method for determining a level of intracellular signal transduction by measuring growth of said transformed cell in presence of examinee substance (page 1061, right column, lines 28-29), and determining a second level of intracellular signal transduction by measuring growth of said transformed cell in absence of said examinee substance (page 1061, right column, lines 26-27). *Nature* Vol. 409, 1060-1063 further shows comparing said level and said second level of intracellular signal transduction from said cytokinin receptor (page 1061, right column, lines 26-36, and page 1062, Figure 4). Thus, *Nature* Vol. 409, 1060-1063 shows typical working examples of the claimed method for determining agonist-activity to a cytokinin receptor.

We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of this application or any patent issuing thereon.

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Date: \_\_\_\_\_

Name: \_\_\_\_\_  
TATSUO KAKIMOTO

Date: \_\_\_\_\_

Name: \_\_\_\_\_  
MASAYUKI HIGUCHI